

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**GREEN MOUNTAIN GLASS, LLC
AND CULCHROME, LLC**

Plaintiffs,

v.

**SAINT-GOBAIN CONTAINERS, INC.
dba VERALLIA NORTH AMERICA**

Defendant.

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

1. Plaintiffs GREEN MOUNTAIN GLASS, LLC (“GMG”) and CULCHROME, LLC (“Culchrome”) for their Complaint against Defendant SAINT-GOBAIN CONTAINERS, INC. (“Saint-Gobain”), allege:

THE PARTIES

2. Plaintiff GMG is a Delaware limited liability company with its principal place of business at 895 Glenbrook Ave, Bryn Mawr, PA 19010.

3. Plaintiff Culchrome is a Delaware limited liability company with its principal place of business at 895 Glenbrook Ave, Bryn Mawr, PA 19010.

4. Culchrome is the assignee and GMG is the exclusive licensee of United States Patents Numbers 5,718,737 (attached as Exhibit 1) and 6,230,521 (attached as Exhibit 2) (the “patents-in-suit”).

5. Plaintiffs are informed and believe, and on that basis allege, that Defendant Saint-Gobain is a Delaware corporation with its principal place of business at 1509 S Macedonia Ave., Muncie, IN 47307. Plaintiffs are further informed and believe that Saint-Gobain’s registered agent is the Corporation Trust Company, Corporation Trust Center, 1209 Orange St.,

Wilmington, DE 19801. Saint-Gobain's parent is Compagnie de Saint-Gobain, a French corporation. Saint-Gobain does business under the name of Verallia or Verallia North America.

THE PARTIES' PAST RELATIONSHIP AND SAINT-GOBAIN'S USE OF PLAINTIFF'S TECHNOLOGY

6. Plaintiffs' patents-in-suit cover technology that allows glass manufacturers to use recycled glass of mixed colors in the manufacturing process. The industry commonly refers to this recycled glass as "mixed cullet." Cullet is cheaper than using raw materials. It also saves energy, reduces emissions, and extends glass furnace life when compared to the use of "virgin" raw materials to make glass products. The patents-in-suit permit glass manufacturers to dramatically increase the amount of cullet used to make glass products, allowing more of the millions of tons of mixed cullet created each year to be used in the glass manufacturing process.

7. Saint-Gobain is one of the largest glass manufacturers in the United States. Plaintiffs met with Saint-Gobain on multiple occasions to discuss Plaintiffs' patented technology and the patents-in-suit. Indeed, Plaintiffs conducted a plant test of their patented technology that was observed by employees of Saint-Gobain. Plaintiffs also discussed their patented technology with senior engineers at Saint-Gobain and provided them with a detailed report on the successful results of the plant test of the patented technology.

8. After meeting with Plaintiffs, Saint-Gobain publicly stated its desire to increase the amount of cullet it uses in its glass manufacturing facilities. Saint-Gobain has emphasized the benefits of using cullet and increasing the amount of cullet in glass manufacturing. For example, in United States Patent Number 8,528,428 (the "'428 patent")—assigned to Saint-Gobain—Saint-Gobain states that "[c]ullet can be used in the glass manufacturing process in any percentage up to ~90% depending on availability, quality and price." *See* Exhibit 3 (attached). On information and belief, it is impossible to use anywhere close to that quantity of cullet without infringing the patents-in-suit. Saint-Gobain's '428 patent also "summarize[s]" "[t]he advantages of addition of cullet to raw batch."

9. These advantages include: “1. Cullet accelerates the melting process by wetting the batch materials and hence aiding decompositions and/or reactions to take place faster. 2. Based on empirical data, every 10% of cullet can result a saving of ~3-4% in energy consumption. 3. Use of cullet improves sustainability by reducing the quarrying of virgin raw materials; every 100 tons of cullet results in a reduction of 120 tons of virgin materials, assuming normal fusion loss factors. 4. As a result of the aforementioned benefits of reducing energy and reduction of raw materials, cullet results in reduced emitted gases like CO₂, SO_x and NO_x.”

10. The '428 patent acknowledges that, at least as of its filing date in 2010: “It is common practice in the glass industry to use mixed cullet in the production of colored glasses such as amber and greens.”

11. The inventor of this Saint-Gobain '428 patent previously met with Plaintiffs to discuss the patents-in-suit and other patents owned and exclusively licensed by Plaintiffs.

12. In 2013, Saint-Gobain announced that it would sell Verallia to the Ardagh Group. On information and belief, that transaction is scheduled to close later in 2014. On information and belief, the combined company will be the second-largest glass manufacturer in the United States.

JURISDICTION AND VENUE

13. The court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* Venue is proper in this federal district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

INFRINGEMENT OF U.S. PATENT NO. 5,718,737

14. Plaintiffs incorporate by reference Paragraphs 1-13 above.

15. On February 17, 1998, United States Patent No. 5,718,737 (the “'737 patent”) was duly and legally issued for an invention entitled “Method of Recycling Mixed Colored Cullet into Amber, Green, or Flint Glass.” Culchrome is the assignee of the '737 patent, and GMG is the exclusive licensee. Together they hold all rights and interest in the '737 patent.

16. Saint-Gobain has infringed and continues to infringe the '737 patent by its methods and processes for using mixed cullet in the glass manufacturing process and the manufacture, use, sale, importation, and/or offer for sale of products that are made using mixed cullet at least in part. Saint-Gobain is liable for its infringement of the '737 patent pursuant to 35 U.S.C. § 271.

17. Saint-Gobain's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Saint-Gobain (or any successor entity to Saint-Gobain) the damages sustained by Plaintiffs as a result of Saint-Gobain's wrongful acts in an amount subject to proof at trial.

INFRINGEMENT OF U.S. PATENT NO. 6,230,521

18. Plaintiffs incorporate by reference Paragraphs 1-17 above.

19. On May 15, 2001, United States Patent No. 6,230,521 (the "'521 patent") was duly and legally issued for an invention entitled "Method of Recycling Batches of Mixed Color Cullet into Amber, Green, or Flint Glass with Selected Properties." Culchrome is the assignee of the '521 patent, and GMG is the exclusive licensee. Together they hold all rights and interest in the '521 patent.

20. Saint-Gobain has infringed and continues to infringe the '521 patent by its methods and processes for using mixed cullet in the glass manufacturing process and the manufacture, use, sale, importation, and/or offer for sale of products that are made using mixed cullet, at least in part. Saint-Gobain is liable for its infringement of the '521 patent pursuant to 35 U.S.C. § 271.

21. Saint-Gobain's acts of infringement have caused damage to Plaintiffs, and Plaintiffs are entitled to recover from Saint-Gobain (or any successor entity to Saint-Gobain) the damages sustained by Plaintiffs as a result of Saint-Gobain's wrongful acts in an amount subject to proof at trial.

WILLFUL INFRINGEMENT

22. Plaintiffs incorporate by reference Paragraphs 1-21 above.

23. Saint-Gobain's infringement of any or all of the above-named patents is willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

24. Saint-Gobain met with Plaintiffs on multiple occasions to discuss the patents-in-suit and other patents owned or exclusively licensed by Plaintiffs related to using mixed cullet in the glass manufacturing process.

25. Saint-Gobain has infringed and continues to infringe the patents-in-suit despite the objectively high likelihood that its actions constitute patent infringement.

JURY DEMAND

26. Plaintiffs demand a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs GREEN MOUNTAIN GLASS, LLC AND CULCHROME, LLC request entry of judgment in their favor and against Defendant SAINT-GOBAIN CONTAINERS, INC. as follows:

- a) Declaration that Saint-Gobain has infringed U.S. Patents Nos. 5,718,737 and 6,230,521;
- b) Declaration that Saint-Gobain's infringement has been willful;
- c) Awarding the damages arising out of Saint-Gobain's infringement of U.S. Patents Nos. 5,718,737 and 6,230,521, including enhanced damages pursuant to 35 U.S.C. § 284, to Plaintiffs together with prejudgment and post-judgment interest, in an amount according to proof;
- d) An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and
- e) For such other costs and further relief as the Court may deem just and proper.

DATED: March 28, 2014

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

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